

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION

FILED-CLERK  
U.S. DISTRICT COURT  
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TEXAS-EASTERN  
BY M. Velvin

SOPHIA GUTIERREZ,  
*Plaintiff,*

v.

UNIVERSITY OF TEXAS MEDICAL  
BRANCH and EDWIN R. SEWELL, D.D.S.,  
Individually and in his Representative Capacity,  
*Defendants.*

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CIVIL ACTION NO. 5:03CV-147-DF

**DEFENDANT THE UNIVERSITY OF TEXAS MEDICAL BRANCH'S  
ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES**

TO THE HONORABLE JUDGE DAVID J. FOLSOM:

COMES NOW, Defendant, The University of Texas Medical Branch ("UTMB"), and files  
this its Original Answer and Affirmative Defenses to Plaintiff's Original Complaint:

**I.  
ORIGINAL ANSWER**

The following Original Answer conforms numerically to the allegations contained in  
Plaintiff's Original Complaint:

1. Defendant UTMB denies violating 42 U.S.C. § 1983 and admits that jurisdiction is proper.
2. Defendant UTMB does not have information sufficient to form a belief about the truth or falsity of these statements.
3. Defendant UTMB admits the statements in this paragraph are correct.

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4. Defendant UTMB admits that Defendant Sewell was the supervisor of the Plaintiff, but does not have information sufficient to form a belief about the truth or falsity of the remaining statements.

5. Defendant UTMB denies the statements in this paragraph.

6. Defendant UTMB admits that the EEOC issued a Notice of Right to Sue letter dated April 10, 2003, but does not have information sufficient to form a belief about the truth or falsity of the statement regarding the date the Plaintiff received this letter.

Facts:

7. Defendant UTMB admits the employment history regarding the Plaintiff. Defendant UTMB denies that Defendant Sewell subjected the Plaintiff to a sexually hostile and offensive work environment.

8. Defendant UTMB denies the statements in this paragraph.

9. Defendant UTMB admits that Plaintiff submitted a written memo on October 17, 2001. Defendant UTMB denies refusing to timely institute remedial action and denies that Plaintiff was continually subjected to a sexually hostile and offensive work environment. Defendant UTMB denies retaliating against the Plaintiff and denies subjecting her to scorn, ridicule and humiliation.

10. Defendant UTMB admits that Plaintiff voluntarily resigned from her position on April 8, 2002, and denies that its conduct or behavior caused the Plaintiff to voluntarily end her employment.

11. Defendant UTMB neither admits nor denies this legal proposition.

12. Defendant UTMB denies the statements in this paragraph.

Count I – Title VII (Sex Discrimination):

13. Defendant UTMB denies the statements in this paragraph.
14. Defendant UTMB denies the statements in this paragraph.
15. Defendant UTMB denies the statements in this paragraph.

Count II – Title VII (Retaliation):

[16.] Defendant UTMB denies the statements in this paragraph. This paragraph was not numbered in the copy of Plaintiff's Original Complaint provided to the undersigned counsel.

17. Defendant UTMB denies the statements in this paragraph.
18. Defendant UTMB denies the statements in this paragraph.

Count III – Section 1983 (Equal Protection):

[19.] Defendant UTMB denies the statements in this paragraph. This paragraph was not numbered in the copy of Plaintiff's Original Complaint provided to the undersigned counsel.

20. Defendant UTMB denies the statements in this paragraph.
  21. Defendant UTMB denies the statements in this paragraph.
  22. Defendant UTMB denies the statements in this paragraph.
  23. Defendant UTMB denies the statements in this paragraph.
  24. Defendant UTMB denies the statements in this paragraph.
- [25.] This paragraph was missing from Plaintiff's Original Complaint.

Count IV – Section 1983 ("And Laws"):

26. Defendant UTMB denies the statements in this paragraph.
27. Defendant UTMB denies the statements in this paragraph.

**II.**  
**AFFIRMATIVE DEFENSE**

1. Defendant UTMB asserts the defense of Eleventh Amendment immunity.
2. Defendant UTMB asserts the defense of statute of limitations.
3. Defendant UTMB asserts that Plaintiff has failed to mitigate her damages.

WHEREFORE, Defendant The University of Texas Medical Branch respectfully requests that this Court deny Plaintiff any and all relief demanded in her Original Complaint, and grant Defendants their costs and attorneys fees, and such other and further relief to which Defendants may show themselves justly entitled.


Respectfully submitted,

GREG ABBOTT  
Attorney General of Texas

BARRY R. MCBEE  
First Assistant Attorney General

EDWARD D. BURBACH  
Deputy Attorney General for Litigation

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ATTORNEYS FOR DEFENDANT UTMB

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been sent by  
U.S. Mail, certified mail, return receipt requested on November 18, 2003, to:

Glen C. Hudspeth  
JONES & HUDSPETH  
723 Main Street  
P.O. Box 547  
Texarkana, Texas 75504

  
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INGRID K. HANSEN  
Assistant Attorney General